

ORDINANCE NO. 2015-25

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING CODE AMENDMENT NO. CA2015-007 AND AMENDING SECTION 10.50.020 (NUISANCE) OF THE NEWPORT BEACH MUNICIPAL CODE (PA2015-108)

WHEREAS, on April 1, 2015, the Governor signed an executive order directing water restrictions to achieve a statewide 25 percent reduction in urban water use through February, 2016; and

WHEREAS, on May 12, 2015, the City of Newport Beach responded by declaring a Level Three water supply shortage; and

WHEREAS, on June 9, 2015, the City Council initiated an amendment of the Zoning Code to reflect the City's water conservation efforts and relax maintenance requirements for lawn, landscape, and vegetation areas during drought conditions. As part of staff's review the Municipal Code was reviewed and found an amendment to this Section was appropriate for consistency with the initiated Zoning Code Section; and

WHEREAS, the City Council desires to relax lawn maintenance during a Level 3 water supply shortage and relaxes all lawn, landscape, and vegetation area maintenance during a Level 4 water supply shortage under Sections 10.50.020 (Nuisance) of the Newport Beach Municipal Code; and

WHEREAS, a public hearing was held on August 11, 2015, in the Council Chambers at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the City Council at this meeting. The City Council introduced and passed to second reading the ordinance to approve Code Amendment No. CA2015-007.

NOW THEREFORE, the City Council of the City of Newport Beach ordains as follows:

Section 1: Subsection E(9) of Section 10.50.020 (Nuisance) of the Newport Beach Municipal Code is hereby amended:

9. Landscaping, grounds, walls, fences, driveways, parking lots, irrigation systems, or sidewalks which are maintained in such a condition so as to become defective, unsightly or unsafe. Lawn areas shall be exempt from the defective and unsightly provision when the City Council has declared a Level Three water supply shortage (NBMC Section 14.16.080) and all lawn, landscape, and other vegetated areas shall be exempt from the defective and unsightly provision when the City Council has declared a Level Four water supply shortage (NBMC Section 14.16.090). All landscaped areas must continue to be kept in a safe and orderly manner consistent with the other

requirements to minimize the potential for excess dust, fire hazards, and hazards created by dead or dying trees and shrubs.

Section 2: Code Amendments are legislative acts. Neither the City's Municipal Code nor State Planning Law set forth any required findings for either approval or denial of such amendments, unless they are determined not to be required for the public necessity and convenience and the general welfare.

The Code Amendment allows the City to accommodate the current Level Three Water Supply Shortage and avoid penalizing residents and businesses whose lawns suffer as a result of mandatory water conservation during drought conditions.

The Code Amendment provides provisions for similar maintenance exceptions for lawn, landscape, or other vegetated areas in the event of a Level Four water supply shortage.

Section 3: The recitals provided in this ordinance are true and correct and are incorporated into the substantive portion of this ordinance.

Section 4: If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared invalid or unconstitutional.

Section 5: The City Council finds the project to be categorically exempt pursuant to Title 14 of the California Code of Regulations (Section 15307, of the State CEQA (California Environmental Quality Act) Guidelines - Class 7 (Actions By Regulatory Agencies for Protection of Natural Resources). Class 7 consists of actions taken by regulatory agencies as authorized by state law or local ordinance to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for the protection of the environment. The Code Amendment would modify general landscape standards and relax watering requirements for the maintenance of lawn, landscaping, and vegetation areas during drought conditions when a water shortage has been identified.

Section 6: Except as expressly modified in this ordinance, all other Sections, Subsections, terms, clauses and phrases set forth in the Newport Beach Municipal Code shall remain unchanged and shall be in full force and effect.

Section 7: The Mayor shall sign and the City Clerk shall attest to the passage of this ordinance. The City Clerk shall cause the ordinance, or a summary thereof, to be published once in the official newspaper of the City, and it shall be effective thirty (30) days after its adoption.

This Ordinance was introduced at a regular meeting of the City Council of the City of Newport Beach held on the 11th day of August, 2015, and adopted on the 8th day of September, 2015, by the following vote, to-wit:

AYES, COUNCILMEMBERS _____

NOES, COUNCILMEMBERS _____

ABSENT COUNCILMEMBERS _____

EDWARD D. SELICH, MAYOR

ATTEST:

LEILANI I. BROWN, CITY CLERK

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

AARON C. HARP, CITY ATTORNEY